

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

DARRIN E KRUFT

Debtor(s)) Chapter 7
) Bankruptcy No. 11-03815/B
)

NOTICE OF MOTION/APPLICATION AND OPPORTUNITY FOR HEARING

TAKE NOTICE that the above referenced Debtor filed a Motion to Sell Real Property, and Motion to Avoid or Value Judicial Lien(s). A copy of the motion and proposed order accompanies this notice.

TAKE FURTHER NOTICE that any response, return and/or objection to this application, should be filed with the Clerk of the Bankruptcy Court no later than 21 days from service of motion/application and a copy simultaneously served on all parties in interest.

TAKE FURTHER NOTICE that no hearing will be held on this application unless a response, return and/or objection is timely filed and served, in which case the Court will conduct a hearing on July 14, 2011, at 1:30 p.m., at Donald Russell Federal Courthouse, 201 Magnolia St., Spartanburg, SC, 29306. No further notice of this hearing will be given.

Dated this 14th day of June, 2011

/s/ P John Freeman
P. John Freeman
Halford, Niemiec & Freeman
238 Rockmont Dr.
Fort Mill, SC 29708
(803) 547-6618
District Court I.D.#: 6111
Attorney for Debtors

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

DARRIN E KRUFT

Debtor(s)) Chapter 7
) Bankruptcy No. 11-03815/B
)

**MOTION TO SELL REAL PROPERTY AND MOTION TO AVOID OR VALUE
JUDICIAL LIENS**

The Debtor moves to be allowed to sell real property upon terms and conditions as set forth below, and in support of said motion allege:

1. The debtor's Chapter 7 Petition and scheduled were filed on June 13, 2011.
2. The debtor desires to sell his home located at 725 Beachwood Cove Dr., Tega Cay, SC 29708 (hereinafter "Beachwood Cove"), and has a buyer for the agreed upon sales price of \$650,000.00. Both the debtor and the buyers believe this to be a fair market value of the property, given all relevant factors
3. The Beachwood Cove property is, and has always been, jointed owned by the debtor and his non-filing spouse. The debtor's spouse is on the deed of Beachwood Cove, but not on the mortgage or note.
4. The debtor has a judgment against him from a deficiency from the short sale of a real property which was a business investment and which was financed by First Citizens Bank & Trust, resulting in a deficiency judgment (the "judgment") in the approximate amount of \$168,162.00.
5. The approximate payoff of the debtor's first (and only) mortgage (the "mortgage") with GMAC Mortgage on Beachwood Cove is \$562,500.00. Subtracting the mortgage payoff from the agreed upon sales price would yield

approximately \$87,500.00 in excess proceeds, less any amounts paid for closing costs.

6. The debtor has claimed a full exemption of \$53,350.00, or such amount as might be fully adjusted for inflation, on Schedule C, in accordance with SC Code of Laws §15-41-30, as amended.
7. The debtor believes his spouse is entitled to one-half of the proceeds of the sale, or approximately \$43,750.00. Additionally, the debtor believes his homestead exemption is more than adequate to cover the remaining proceeds from the sale.
8. Alternately, under 11 U.S.C. §506, the debtor also moves to value the judgment claim of First Citizens at \$0.00 only insofar as it relates to Beachwood Cove for the reasons set forth previously, and allow the debtor to sell Beachwood Cove.
9. The purchasers of the debtor's home wish to complete their purchase transaction as promptly as possible; the debtor has had no other offers for value for Beachwood Cove.
10. The debtor and his spouse intend to use the proceeds from the sale of Beachwood Cove to place a down payment on the purchase of a new residence. The debtor's spouse has pre-qualified for such new mortgage to be solely in her name, but does intend to use the proceeds from the sale of Beachwood Cove to be a down payment on this new property.
11. The debtor believes he should be allowed to sell Beachwood Cove free and clear of any judgment liens of First Citizens Bank and Trust, and divide the

proceeds equally between the debtor and his spouse, and that the debtor's homestead exemption from §15-41-30 is more than sufficient to cover the debtor's equity. Therefore, the debtor and his spouse should receive the entirety of the funds, after satisfaction of the mortgage, from the sale of Beachwood Cove.

WHEREFORE, Debtor prays that he be allowed to sell the real property located at 725 Beachwood Cove, Tega Cay, South Carolina, 29708, upon the terms set forth above and apply the proceeds as set forth above, and for such other and further relief as this Court shall deem just and equitable.

/s/ Darrin E Kruft
Darrin E Kruft

June 14, 2011
Fort Mill, SC

/s/ P John Freeman
P. John Freeman
Halford, Niemiec & Freeman
238 Rockmont Dr.
Fort Mill, SC 29708
(803) 547-6618
District Court I.D.#: 6111
Attorney for Debtor(s)

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

DARRIN E KRUFT

Debtor(s)) Chapter 7
) Bankruptcy No. 11-03815/B
_____)

CERTIFICATE OF MAILING

The undersigned hereby certifies that she is the legal assistant to the attorney for Debtors in the within matter and that the within Notice and Motion to Sell Real Property, with notice of possible hearing, was served upon the Chapter 7 Trustee (via electronic notification only) and those parties listed on the attached mailing matrix, by depositing copies of same to each in the United States Mail, with sufficient postage annexed thereto, addressed as shown on the attached mailing matrix and as follows:

Chapter 7 Trustee (via electronic notification only)

June 15TH, 2011

/s/ Greta Neal
Greta Neal
Legal Assistant to
P. John Freeman
Halford, Niemiec & Freeman
238 Rockmont Dr.
Fort Mill, SC 29708
(803) 547-6618
District Court I.D.#: 6111
Attorney for Debtor(s)

IN THE UNITED STATES BANKRUPTCY COURT
IN THE DISTRICT OF SOUTH CAROLINA

Case Number: 11-03815/B

Order Allowing Sale of Property free and clear of Judicial Liens

The relief set forth on the following pages, for a total of 2 pages including this page, is hereby **ORDERED**.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

DARRIN E KRUFT

Debtor(s))	Chapter 7
)	Bankruptcy No. 11-03815/B

ORDER ALLOWING SALE OF PROPERTY FREE AND CLEAR OF JUDICAL LIENS

This matter is before the Court on the Debtor's request to be allowed to sell a residence and lot located at 725 Beachwood Cove Dr., Tega Cay, SC, 29708 free and clear of any judgment lien of First Citizens Bank & Trust for the reasons as set forth in the Debtor's motion.

Following consideration of this matter and no objection having been timely received it is

ORDERED that the Debtor shall be allowed to sell the real property located at 725 Beachwood Cove Dr., Tega Cay, SC free and clear of any judicial or judgment lien of First Citizens Bank & Trust.

AND IT IS SO ORDERED

Label Matrix for local noticing

0420-7

Case 11-03815-hb

District of South Carolina

Spartanburg

Thu Jun 16 10:22:47 EDT 2011

FIRST CITIZENS BANK & TRUST

PO BOX 29

COLUMBIA, SC 29202-0029

J. Bratton Day's United States

Bankruptcy Courthouse

1100 Laurel Street

Columbia, SC 29201-2423

CAPITAL ONE

PO BOX 71083

CHARLOTTE, NC 28272-1083

LEACH, BOUCH & CRAWFORD

PO BOX 4216

COLUMBIA, SC 29240-4216

RBC

3201 BERCHLEAF CT, STE 200

RALEIGH, NC 27604-1547

SC DEPT OF REVENUE

PO BOX 12265

COLUMBIA SC 29211-2265

WELLS FARGO

PO BOX 14411

DES MOINES, IA 50306-3411

WELLS FARGO BANK, NA

PO BOX 14411

DES MOINES, IA 50306-3411

DARRIN EDWARD KRUFT

725 BEACHWOOD COVE DRIVE

TEGA CAY, SC 29708-8222

P. John Freeman

Halford Niemiec Freeman LLP

238 Rockmont Drive

Fort Mill, SC 29708-6477

US Trustee's Office

Strom Thurmond Federal Building

1835 Assembly St.

Suite 953

Columbia, SC 29201-2448

W. Ryan Howis

P.O. Box 10269

Rock Hill, SC 29731-0269

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

INTERNAL REVENUE SERVICE

MDP 39

1835 ASSEMBLY STREET

COLUMBIA SC 29201

End of Label Matrix

Mailable recipients 14

Bypassed recipients 0

Total 14